REMARKS/ARGUMENTS

Pending claims 45 and 51 stand rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,236,983 (Hofmann). Applicant respectfully traverses the rejection and respectfully requests reconsideration of the same. As to claim 45, Hofmann fails to disclose each and every element of claim. As such, Hofmann cannot anticipate under §102 and accordingly claim 45 is patentable. MPEP §2131. In this regard, Hofmann fails to teach, at least: (1) assigning of different addresses to at least two agents on a client system; (2) a client system that is of a multicast system; and (3) determining whether a message sent to multiple client systems of a multicast system and received by the client system is addressed to an agent of the system.

As to point one, Hofmann nowhere teaches assigning of different addresses. In this respect, Hofmann merely teaches that various discovery agents in a system each include a unique associated identifier. Hofmann, Abstract; col. 5, lns. 62-65. This unique associated identifier is nowhere disclosed in Hoffman to be an address. For example, as shown in FIG. 3, discovery agents are identified by their names (e.g., HWConfiguration, DiskDriveInfo). Hofmann, col. 6, ln. 61 – col. 7, ln. 17.

As to point 2, Hoffman further fails to teach a client system that is of a multicast system. In this regard, nowhere does Hoffman anywhere disclose that client system 10 is part of a multicast system. In an effort to support this contention, the Office Action contends that SystemStatus rule is somehow a multicast system, as it "activates a selected group of agents". Final Office Action, p. 2. However, the SystemStatus discovery rule is just that, a discovery rule, which Hofmann teaches is something that determines:

> what, if any, action is to be taken based on the collected data. As discussed below, the discovery rules may be a series of Boolean operations, mathematical equations, or other comparisons or evaluations of the collected data.

Hoffman, col. 3, lns. 2-6. This in no way discloses a multicast system of which a client system is a part. It defies logic for somehow a discovery rule (which is merely code) to be a client system, when instead Hofmann teaches that the discovery rule is present in a discovery engine inside of client system 10. Accordingly, for this further reason, claim 45 is patentable.

Finally, as to point 3, Hofmann nowhere teaches determining whether a message sent to multiple client systems of a multicast system and received by a given client system is addressed

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to an agent of that system. In this regard, the portions of Hofmann cited contended to meet this claimed subject matter are irrelevant (*see* Office Action, p. 4). This is so, at least because Hoffman nowhere teaches either sending of a single message to multiple client systems of a multicast system (nowhere taught or suggested by Hofmann), or determining whether such a message received by Hofmann's client system 10 is addressed to an agent thereon. For all these reasons, claim 45 is patentable over Hoffman.

Claim 51 is patentable over Hofmann for at least the same reasons. Furthermore, claim 51 is patentable as Hofmann nowhere teaches a processor-based device that is a client system of a multicast network. This is so, as Hofmann nowhere teaches the presence of a multicast network. As described in the Specification, a multicast network enables messages to be sent to a target group of clients constituting a subset of all network clients via a header including addresses of all subject clients that are addressed. Specification, p. 1. As Hofmann nowhere teaches such a network, claim 51 is patentable for this further reason.

Pending claims 46-49 stand rejected under 35 U.S.C. §103(a) over Hofmann in view of U.S. Patent No. 6,009,274 (Fletcher). Applicant respectfully traverses the rejection. The rejection is improper, at least for the reasons discussed above regarding claim 45 from which claim 46 depends. *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (dependent claims are nonobvious when independent claim is nonobvious). The rejection of claims 46-49 is further improper, as there is no legally proper motivation to combine these two references. In this regard, the Office Action has engaged in the hindsight-based obviousness analysis that has been widely and soundly disfavored by the Federal Circuit. In order to prevent a hindsight-based obviousness analysis, the Federal Circuit requires that "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1316-17 (Fed Cir. 2000).

No such showing is present here. Instead, the Office Action merely states that it would have been obvious to combine Hofmann and Fletcher because of Fletcher's "teaching of different type of messages would allow to identify messages and to provide multiple services in a distributed environment." Office Action, p. 5. Nowhere does this contended reasoning anywhere provide a motivation for the claimed subject matter, namely the assigning of different

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addresses to different agents in a client system of a multicast system, and determining whether a message sent to multiple such client systems and received by the client system is addressed to one of the agents. For this further reason, claim 46 and its dependent claims are patentable.

The rejection of claim 46 is further improper, as neither reference teaches or suggests receiving at least two different types of messages including a short message service message. In this regard, neither reference teaches or suggests a short message service message. A short message service message is a particular type of message, as evidenced by the definition of short message service, attached hereto as Exhibit 1. As shown in Exhibit 1 a short message service is "a message service offered by the GSM digital or cellular telephone system." Exhibit 1. Because neither reference teaches or suggests such a message, claim 46 is patentable. Instead, all that Fletcher teaches is that a server sends requests, which are then responded to by agent. While the Office Action contends that the "keep alive" message sent in Fletcher is a "short message service message" as recited by claim 46, there is no teaching or suggestion in Fletcher to support this contention. Instead, all that Fletcher states with regard to such "keep alive" messages is that they "flow between agent and ASU server on a periodic basis whether the connection is doing anything or not." Fletcher, col. 8, lns. 52-54. Nowhere however, does this anywhere teach or suggest that such message is a short message service message. For this further reason, claim 46 and the claims depending therefrom are patentable over the proposed combination.

As to dependent claim 48, neither reference anywhere teaches or suggests receiving different addresses with messages that include software and messages that do not include software. Instead, all that the cited portions of Fletcher teach is that end systems transmit packets having destination and source addresses. Nowhere however does Fletcher teach or suggest that such source and destination addresses change based on a type of message. Instead it appears the opposite is true: source and destination addresses remain the same regardless of message type. For this further reason, claim 48 is patentable.

As to dependent claim 49, neither reference anywhere teaches or suggests determining if a message is directed to a given agent of a client system "based upon a service identifier associated with the agent", as recited by claim 49. In this regard, the Office Action entirely fails to cite to any portion of either reference for teaching or suggestion of such a service identifier

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associated with an agent of a client system. Thus the Office Action fails to set forth a *prima facie* case with respect to all claim limitations, in contravention of MPEP §2143.03, and for this further reason, claim 49 is patentable.
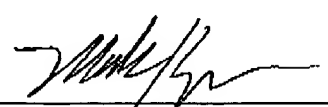
The rejection of pending claims 50 and 52-55 is further improper (in addition to the reasons discussed above regarding claim 45), as the Office Action has engaged again in hindsight rationale in order to combine Hofmann with U.S. Patent No. 5,260,778 (Kauffman). As to the reasoning for the combination, the Office Action contends that it would have been obvious to combine these references "to provide for the distribution of specific messages to individual subscribers or special groups of subscribers via a CATV communication network... ." Office Action, p. 6. However, this is not what is claimed in any of the rejected claims. The references must provide "the desirability of making the specific combination that was made by the applicant." *In re Kotzab,* 55 U.S.P.Q.2d at 1316-17 (Fed Cir. 2000). Because no such showing is present here, the rejection is improper and Applicants respectfully reconsideration.

Dependent claim 52 is further patentable, as neither reference anywhere teaches or suggests providing of a program identifier to a tuner. In this regard, the Office Action refers to Kauffman. However, Kauffman only teaches that a cable channel is delivered to a tuner, not a program identifier. Dependent claim 53 is further patentable as neither reference anywhere teaches or suggests multiple addressable agents of a single system, as discussed above regarding claim 45. Dependent claim 54 is further patentable as neither reference anywhere teaches or suggests a service identifier. This is especially so, as the Office Action refers back to claim 49 for alleged support. However, the discussion of claim 49 is with regard to Fletcher, not Kauffman. For this further reason, claim 54 is further patentable.

In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.

Respectfully submitted,

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